

## Message

**From:** Harlow, David [harlow.david@epa.gov]  
**Sent:** 1/6/2021 9:26:09 PM  
**To:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Moor, Karl [Moor.Karl@epa.gov]  
**CC:** Dunham, Sarah [Dunham.Sarah@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** RE: Draft SRE Decision for Sinclair WY 2018

What synchronicity. Our respective messages crossed in the email.

I will turn to this with great interest. Thanks. I'm happy to leave a subsequent conversation to tomorrow.

**David S. Harlow**  
**Senior Counsel**  
**Office of Air and Radiation, USEPA**  
**WJC-N Room 5409K**  
**1200 Pennsylvania Avenue NW**  
**Washington, DC 20460**  
**202-564-1233**  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)  
**5 U.S.C. § 3331**

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**From:** Hengst, Benjamin <Hengst.Benjamin@epa.gov>  
**Sent:** Wednesday, January 6, 2021 4:01 PM  
**To:** Moor, Karl <Moor.Karl@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Cc:** Dunham, Sarah <Dunham.Sarah@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>  
**Subject:** Draft SRE Decision for Sinclair WY 2018

Hi David, Karl:

## **Ex. 5 Deliberative Process (DP)**

<< File: DRAFT 2018 Sinclair Decision\_DOE Rescore - 6 Jan 2020.docx >>

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**From:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>

**Sent:** Tuesday, December 01, 2020 12:55 PM

**To:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>

**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

# Ex. 5 Deliberative Process (DP)

With Regard, Karl



Message

---

**From:** Harlow, David [harlow.david@epa.gov]  
**Sent:** 1/6/2021 9:19:19 PM  
**To:** Bunker, Byron [bunker.byron@epa.gov]  
**CC:** Dunham, Sarah [Dunham.Sarah@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Moor, Karl [Moor.Karl@epa.gov]  
**Subject:** RE: Direction from the Administrator (Deliberative  
**Attachments:** ATT98656; ATT28179; ATT73891

Byron,

# Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)  
5 U.S.C. § 3331

---

**From:** Bunker, Byron <bunker.byron@epa.gov>  
**Sent:** Wednesday, January 6, 2021 2:01 PM  
**To:** Harlow, David <harlow.david@epa.gov>  
**Cc:** Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>  
**Subject:** RE: Direction from the Administrator (Deliberative

Hi David,

# Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155

**Ex. 6 Personal Privacy (PP)**

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**From:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Sent:** Wednesday, January 06, 2021 1:26 PM  
**To:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Cc:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>  
**Subject:** RE: Direction from the Administrator (Deliberative)

Byron,

# Ex. 5 Deliberative Process (DP)

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)  
5 U.S.C. § 3331

---

**From:** Harlow, David

**Sent:** Tuesday, January 5, 2021 2:30 PM

**To:** Bunker, Byron <bunker.byron@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>

**Cc:** Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

**Subject:** RE: Direction from the Administrator (Deliberative)

Byron,

# Ex. 5 Deliberative Process (DP)

**David S. Harlow**

**Senior Counsel**

**Office of Air and Radiation, USEPA**

**WJC-N Room 5409K**

**1200 Pennsylvania Avenue NW**

**Washington, DC 20460**

**202-564-1233**

[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)

**5 U.S.C. § 3331**

---

**From:** Bunker, Byron <bunker.byron@epa.gov>

**Sent:** Tuesday, January 5, 2021 1:40 PM

**To:** Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>

**Cc:** Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

**Subject:** RE: Direction from the Administrator (Deliberative)

Hi David,



## Ex. 5 Deliberative Process (DP)

Thanks,

Byron

<< File: 2018 Small Refinery RFS Decision Memo 2019.08.09.pdf >> << File: RFA opening brief.pdf >>

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155

**Ex. 6 Personal Privacy (PP)**

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**From:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Sent:** Tuesday, January 05, 2021 12:56 PM

**To:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>

**Cc:** Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>

**Subject:** RE: Direction from the Administrator (Deliberative)

Byron,

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

David S. Harlow  
Senior Counsel  
Office of Air and Radiation, USEPA  
WJC-N Room 5409K  
1200 Pennsylvania Avenue NW  
Washington, DC 20460  
202-564-1233  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)  
5 U.S.C. § 3331

---

**From:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Sent:** Tuesday, January 5, 2021 11:32 AM  
**To:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>  
**Cc:** Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>  
**Subject:** RE: Direction from the Administrator (Deliberative)  
**Importance:** High

Hi Karl,

# Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155

**Ex. 6 Personal Privacy (PP)**

\*\*\*\*\*

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**From:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>  
**Sent:** Tuesday, December 01, 2020 12:55 PM  
**To:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>  
**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

# Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

With Regard, Karl

## Message

**From:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]  
**Sent:** 1/6/2021 9:01:05 PM  
**To:** Moor, Karl [Moor.Karl@epa.gov]; Harlow, David [harlow.david@epa.gov]  
**CC:** Dunham, Sarah [Dunham.Sarah@epa.gov]; Bunker, Byron [bunker.byron@epa.gov]  
**Subject:** Draft SRE Decision for Sinclair WY 2018  
**Attachments:** DRAFT 2018 Sinclair Decision\_DOE Rescore - 6 Jan 2020.docx

Hi David, Karl:

## Ex. 5 Deliberative Process (DP)

David—please let me know if you want to chat. If so, then perhaps you/me/Byron get on the phone. It might be worth your checking in first with David F, though. -Ben



DRAFT 2018  
Sinclair Decision...

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**From:** Moor, Karl <Moor.Karl@epa.gov>  
**Sent:** Tuesday, December 01, 2020 12:55 PM  
**To:** Dunham, Sarah <Dunham.Sarah@epa.gov>  
**Cc:** Bunker, Byron <bunker.byron@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

## Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

With Regard, Karl

## Message

**From:** Hamilton, Sabrina [Hamilton.Sabrina@epa.gov]  
**Sent:** 2/16/2021 5:17:09 PM  
**To:** Campbell, Ann [Campbell.Ann@epa.gov]  
**Subject:** RE: QUESTION re **Ex. 5 Deliberative Process (DP)** and Sinclair Decision Memo -- **Ex. 5 Deliberative Process (DP)** and OAR-21-000-1526

I'll check with the program office. Thanks

Sabrina

-----Original Message-----

**From:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Sent:** Tuesday, February 16, 2021 12:16 PM  
**To:** Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
**Subject:** RE: QUESTION re **Ex. 5 Deliberative Process (DP)** and Sinclair Decision Memo -- **Ex. 5 Deliberative Process (DP)** and OAR-21-000-1526

No, please work with the program on check on these.

Ann (Campbell) Ferrio  
 Chief of Staff  
 EPA/Office of Air and Radiation  
 Office: 202 566 1370

-----Original Message-----

**From:** Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
**Sent:** Tuesday, February 16, 2021 12:15 PM  
**To:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Subject:** QUESTION re **Ex. 5 Deliberative Process (DP)** and Sinclair Decision Memo -- **Ex. 5 Deliberative Process (DP)** and OAR-21-000-1526

Ann,

## **Ex. 5 Deliberative Process (DP)**

Sabrina

-----Original Message-----

**From:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Sent:** Tuesday, February 16, 2021 8:05 AM  
**To:** Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
**Subject:** RE: FOR SIGANTURE: Resigning of RFS Letter from Under Secretary Hubbard

Please close. Thank you.

Ann (Campbell) Ferrio  
 Chief of Staff  
 EPA/Office of Air and Radiation  
 Office: 202 566 1370

-----Original Message-----

**From:** Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
**Sent:** Tuesday, February 16, 2021 7:44 AM  
**To:** Campbell, Ann <Campbell.Ann@epa.gov>  
**Subject:** RE: FOR SIGANTURE: Resigning of RFS Letter from Under Secretary Hubbard

Ann,

## **Ex. 5 Deliberative Process (DP)**

Sabrina

-----Original Message-----

From: Campbell, Ann <Campbell.Ann@epa.gov>  
 Sent: Thursday, January 21, 2021 7:26 AM  
 To: Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
 Subject: Re: CMS Reassign Control - Martha Faulkner - OAR-21-000-1526

**Ex. 5 Deliberative Process (DP)**

Ann (Campbell) Ferrio  
 Chief of Staff  
 Office of Air and Radiation  
 (202) 566-1370

-----Original Message-----

> On Jan 21, 2021, at 7:12 AM, Hamilton, Sabrina <Hamilton.Sabrina@epa.gov> wrote:  
 >  
 > Ann,  
 >  
 > **Ex. 5 Deliberative Process (DP)**  
 >  
 > Sabrina

-----Original Message-----

From: Campbell, Ann <Campbell.Ann@epa.gov>  
 Sent: Tuesday, January 19, 2021 8:13 AM  
 To: Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
 Subject: Re: **Ex. 5 Deliberative Process (DP)** and Sinclair Decision Memo -- **Ex. 5 Deliberative Process (DP)** and OAR-21-000-1526

**Ex. 5 Deliberative Process (DP)**

Ann (Campbell) Ferrio  
 Chief of Staff  
 Office of Air and Radiation  
 (202) 566-1370

> On Jan 19, 2021, at 7:54 AM, Hamilton, Sabrina <Hamilton.Sabrina@epa.gov> wrote:  
 >  
 > Ann,

**Ex. 5 Deliberative Process (DP)**

>  
 > Sabrina  
 >  
 >  
 > -----Original Message-----  
 > From: Hamilton, Sabrina  
 > Sent: Thursday, January 14, 2021 7:36 AM  
 > To: Campbell, Ann <Campbell.Ann@epa.gov>  
 > Subject: RE: CMS Reassign Control - Martha Faulkner - OAR-21-000-1526  
 >  
 > Thanks  
 >  
 >  
 > Sabrina  
 >  
 >

> -----Original Message-----

> From: Campbell, Ann <Campbell.Ann@epa.gov>  
 > Sent: Thursday, January 14, 2021 7:28 AM  
 > To: Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>  
 > Subject: Re: CMS Reassign Control - Martha Faulkner - OAR-21-000-1526  
 >

**Ex. 5 Deliberative Process (DP)**

>  
 > Ann (Campbell) Ferrio  
 > Chief of Staff  
 > Office of Air and Radiation  
 > (202) 566-1370  
 >  
 >> On Jan 14, 2021, at 7:24 AM, Hamilton, Sabrina <Hamilton.Sabrina@epa.gov> wrote:  
 >>  
 >> Ann,  
 >>  
 >> **Ex. 5 Deliberative Process (DP)**  
 >>



>> Sabrina

>>

>>

>> -----Original Message-----

>> From: cmsadmin@epa.gov <cmsadmin@epa.gov>

>> Sent: Thursday, January 14, 2021 6:57 AM

>> To: Hamilton, Sabrina <Hamilton.Sabrina@epa.gov>

>> Subject: CMS Reassign Control - Martha Faulkner - OAR-21-000-1526

>>

>> Control OAR-21-000-1526 has been reassigned to you on 1/14/21 6:56 AM by Martha Faulkner. Please go to your inbox to view the details of the control.

>>

>> Summary Information -

>> Control Number: OAR-21-000-1526

>> Control Subject: Decision on the Small Refinery Exemption Petitions from the Sinclair Wyoming Refinery for 2018 and 2019 and the Sinclair Casper Refinery for 2019

>> From: Dunham, Sarah

>>

>>

>> Note: This Email was automatically generated. Please do not attempt to respond to it. You can access this control at <https://cms.epa.gov/cms>. Questions or comments concerning CMS should be directed to CMS Support at 202-564-4985 or CMS Information@epa.gov.

## Message

**From:** Bunker, Byron [bunker.byron@epa.gov]  
**Sent:** 1/5/2021 5:11:41 PM  
**To:** Cohen, Janet [cohen.janet@epa.gov]; Nelson, Karen [nelson.karen@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]  
**CC:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]  
**Subject:** FW: Direction from the Administrator (Deliberative)

**Importance:** High

FYSA

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**From:** Bunker, Byron  
**Sent:** Tuesday, January 05, 2021 11:32 AM  
**To:** Moor, Karl <Moor.Karl@epa.gov>  
**Cc:** Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>  
**Subject:** RE: Direction from the Administrator (Deliberative)  
**Importance:** High

Hi Karl,

## Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155

Mobile: (734) 353-9623

\*\*\*\*\*

---

**From:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>

**Sent:** Tuesday, December 01, 2020 12:55 PM

**To:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>

**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

# Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

With Regard, Karl

## Message

**From:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Sent:** 3/27/2021 6:12:42 PM  
**To:** Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]  
**CC:** Radha Adhar [Ex. 6 Personal Privacy (PP)]; Hoffer, Melissa [Hoffer.Melissa@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]  
**Subject:** RE: Sinclair Updates

Thanks, Gautam.

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>  
**Sent:** Saturday, March 27, 2021 2:04 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>  
**Subject:** Re: Sinclair Updates

# Ex. 5 Attorney Client (AC)

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP)

On Mar 26, 2021, at 8:09 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

As usual, sterling advice from ARLO. Thanks

Sent from my iPhone

On Mar 26, 2021, at 8:06 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

## Ex. 5 Attorney Client (AC)

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP)

On Mar 26, 2021, at 6:19 PM, Goffman, Joseph  
<Goffman.Joseph@epa.gov> wrote:

Radha – You may already know this, but Sinclair has filed a notice of intent to sue, so I am adding Melissa, Sue, and Gautam for awareness and guidance. Thanks.

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>  
**Sent:** Friday, March 26, 2021 6:09 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

Hi Joe and Radha,

Hope you both are doing well. This week when Mr. Regan spoke with Senator Lee, he made a series of comments relating the Sinclair situation to RFA v. EPA. This is concerning to me because we believe that the Sinclair waiver has nothing to do with RFA v. EPA. I've put some details down below explaining this and laying out how I hope we can proceed going forward.

**What is the continuity standard created by RFA v. EPA?**

In January 2020, the Tenth Circuit vacated and remanded three EPA decisions granting SRE petitions for the 2016 and 2017 RFS compliance years which were issued in calendar years 2017 and 2018, holding that a small refinery's petition can be granted only if the refinery satisfies two conditions: 1, the small refiner must demonstrate an existing exemption (meaning continuous exemptions from the inception of the program); and 2, the small refiner must demonstrate disproportionate economic hardship caused by RFS compliance.

**Does Sinclair meet the continuity standard under RFA v. EPA???** Ex. 4 CBI

**Ex. 4 CBI**

# Ex. 4 CBI

As I stated earlier, in RFA, the Tenth Circuit concluded that EPA may grant hardship relief to a small refinery only if that small refinery had continuously received hardship relief for the life of the RFS program.

# Ex. 4 CBI

Where does that leave us?

Ex. 4 CBI

the determinations of the court in RFA v. EPA are no longer relevant to EPA decision making. This means EPA doesn't have the authority withhold Sinclair's RINs. The relief that EPA rightfully provided Sinclair waived the company's compliance obligations under the RFS program. So EPA has no right to keep the compliance credits that Sinclair previously provided.

Ex. 4 CBI

## Ex. 4 CBI

### Steps moving forward

While on the phone with Senator Lee, Administrator Regan was not understanding the Senator's concerns with the applicability of RFA v. EPA. He told the Senator that he would have EPA staff reach out to speak with our staff about the 'more granular details' of the issue. However, when I got on the phone with Radha, I was informed that we would no longer be able to communicate on issues related to Sinclair because of concerns regarding the confidential business information involved. I've attached a privacy release signed by Sinclair authorizing our office to investigate these matters. I need to immediately confirm our ability to communicate with your office on these issues related to Sinclair.

Secondly, while on the phone with the Senator, Mr. Regan again emphasized his commitment to transparency on the issue. While on the phone with Radha, I was told that EPA is or would be reaching out to Sinclair. That, however, has still not occurred. I need to set a date next week for EPA to speak to Sinclair even if simply to establish contact with the attorneys at OGC who are leading on this issue. It is critical that Sinclair be able to communicate with their regulatory agency about issues relevant to their operation.

Thanks for your attention on this important issue. Talk soon,  
Cole

---

**From:** "LaCroix, Cole (Lee)" <Cole.LaCroix@lee.senate.gov>

**Date:** Thursday, March 11, 2021 at 2:43 PM

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar { Ex. 6 Personal Privacy (PP) }

**Subject:** Re: Sinclair Updates

Joe,

I know you all are working on this but I thought I might inquire a little further to understand the consideration your team is mulling over. The way I understood it was that once the court made its determination on the motion to stay the issuance of the RINs, it would then be the job of the EPA to promptly issue them. The only way I can imagine that not happening is if the agency is reconsidering the waiver? Is that the consideration that is under debate? Or is it more of a due-diligence process that has to be undergone before issuance?



As you know,

Ex. 4 CBI

# Ex. 4 CBI

Hoping you can shed some light on what the consideration is and, if you are aware, a potential timeline of when it could be sorted out.

Thanks for all you help on this issue.  
Cole

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**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Date:** Tuesday, March 9, 2021 at 8:46 PM

**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP) >

**Subject:** RE: Sinclair Updates

Hi, Cole. Well, we've heard emphatically from both sides – RFA and the attorney representing Sinclair -- on their respective, conflicting preferences. Colleagues in the Air Program and in the General Counsel's office are deliberating on a recommendation to make to agency leadership on how to proceed, and I would propose that we connect once that recommendation is put forward and we decide what makes sense to do. Of course, if there's urgency on your end for a call tomorrow, I will try to find a time when either I or someone here can talk.

Thank you for getting in touch with me.

Best,  
Joe

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>

**Sent:** Tuesday, March 9, 2021 8:25 PM

**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>

**Subject:** Sinclair Updates

Hi Joe,

Hope you're doing well. Just wanted to check in and see what the latest was with Sinclair now that the court has made a determination. Would you be able to jump on a quick call tomorrow?

Thanks,

Cole

<HPSCAN\_20210326202156986\_2021-03-26\_202331701[2].pdf>

<HPSCAN\_20210326205331074\_2021-03-26\_205506385[1].pdf>

## Message

**From:** Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]  
**Sent:** 3/28/2021 6:58:46 PM  
**To:** Byron Bunker [Bunker.Byron@epa.gov]; Benjamin Hengst (Hengst.Benjamin@epa.gov) [Hengst.Benjamin@epa.gov]  
**Subject:** FW: Sinclair Updates

**From:** Hoffer, Melissa <Hoffer.Melissa@epa.gov>  
**Sent:** Sunday, March 28, 2021 2:38 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Radha Adhar <Ex. 6 Personal Privacy (PP)>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>  
**Subject:** RE: Sinclair Updates

Thanks, Joe.

# Ex. 5 Attorney Client (AC)

M

**From:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Sent:** Friday, March 26, 2021 6:19 PM  
**To:** Radha Adhar <Ex. 6 Personal Privacy (PP)>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>  
**Subject:** FW: Sinclair Updates

Radha – You may already know this, but Sinclair has filed a notice of intent to sue, so I am adding Melissa, Sue, and Gautam for awareness and guidance. Thanks.

Joseph Goffman  
 Acting Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>  
**Sent:** Friday, March 26, 2021 6:09 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

Hi Joe and Radha,

Hope you both are doing well. This week when Mr. Regan spoke with Senator Lee, he made a series of comments relating the Sinclair situation to RFA v. EPA. This is concerning to me because we believe that the Sinclair waiver has

nothing to do with RFA v. EPA. I've put some details down below explaining this and laying out how I hope we can proceed going forward.

**What is the continuity standard created by RFA v. EPA?**

In January 2020, the Tenth Circuit vacated and remanded three EPA decisions granting SRE petitions for the 2016 and 2017 RFS compliance years which were issued in calendar years 2017 and 2018, holding that a small refinery's petition can be granted only if the refinery satisfies two conditions: 1, the small refiner must demonstrate an existing exemption (meaning continuous exemptions from the inception of the program); and 2, the small refiner must demonstrate disproportionate economic hardship caused by RFS compliance.

**Does Sinclair meet the continuity standard under RFA v. EPA???**

Ex. 4 CBI

**Ex. 4 CBI**

As I stated earlier, in RFA, the Tenth Circuit concluded that EPA may grant hardship relief to a small refinery only if that small refinery had continuously received hardship relief for the life of the RFS program.

Ex. 4 CBI

**Ex. 4 CBI**

Where does that leave us?

**Ex. 4 CBI**

the determinations of the court in RFA v. EPA are no longer relevant to EPA decision making. This means EPA doesn't have the authority withhold Sinclair's RINs. The relief that EPA rightfully provided Sinclair waived the company's compliance obligations under the RFS program. So EPA has no right to keep the compliance credits that Sinclair previously provided.

**Ex. 4 CBI****Ex. 4 CBI****Steps moving forward**

While on the phone with Senator Lee, Administrator Regan was not understanding the Senator's concerns with the applicability of RFA v. EPA. He told the Senator that he would have EPA staff reach out to speak with our staff about the 'more granular details' of the issue. However, when I got on the phone with Radha, I was informed that we would no longer be able to communicate on issues related to Sinclair because of concerns regarding the confidential business information involved. I've attached a privacy release signed by Sinclair authorizing our office to investigate these matters. I need to immediately confirm our ability to communicate with your office on these issues related to Sinclair.

Secondly, while on the phone with the Senator, Mr. Regan again emphasized his commitment to transparency on the issue. While on the phone with Radha, I was told that EPA is or would be reaching out to Sinclair. That, however, has still not occurred. I need to set a date next week for EPA to speak to Sinclair even if simply to establish contact with the attorneys at OGC who are leading on this issue. It is critical that Sinclair be able to communicate with their regulatory agency about issues relevant to their operation.

Thanks for your attention on this important issue. Talk soon,  
Cole

---

**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Date:** Thursday, March 11, 2021 at 2:43 PM

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>

**Subject:** Re: Sinclair Updates

Joe,

I know you all are working on this but I thought I might inquire a little further to understand the consideration your team is mulling over. The way I understood it was that once the court made its determination on the motion to stay the issuance of the RINs, it would then be the job of the EPA to promptly issue them. The only way I can imagine that not happening is if the agency is reconsidering the waiver? Is that the consideration that is under debate? Or is it more of a due-diligence process that has to be undergone before issuance?

# Ex. 4 CBI

Hoping you can shed some light on what the consideration is and, if you are aware, a potential timeline of when it could be sorted out.

Thanks for all you help on this issue.  
Cole

---

**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Date:** Tuesday, March 9, 2021 at 8:46 PM

**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Cc:** Radha Adhar Ex. 6 Personal Privacy (PP)  
**Subject:** RE: Sinclair Updates

Hi, Cole. Well, we've heard emphatically from both sides – RFA and the attorney representing Sinclair -- on their respective, conflicting preferences. Colleagues in the Air Program and in the General Counsel's office are deliberating on a recommendation to make to agency leadership on how to proceed, and I would propose that we connect once that recommendation is put forward and we decide what makes sense to do. Of course, if there's urgency on your end for a call tomorrow, I will try to find a time when either I or someone here can talk.

Thank you for getting in touch with me.

Best,  
Joe

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** LaCroix, Cole (Lee) <[Cole\\_LaCroix@lee.senate.gov](mailto:Cole_LaCroix@lee.senate.gov)>  
**Sent:** Tuesday, March 9, 2021 8:25 PM  
**To:** Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>  
**Subject:** Sinclair Updates

Hi Joe,

Hope you're doing well. Just wanted to check in and see what the latest was with Sinclair now that the court has made a determination. Would you be able to jump on a quick call tomorrow?

Thanks,  
Cole

## Message

**From:** Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]  
**Sent:** 3/27/2021 12:41:33 AM  
**To:** Byron Bunker [Bunker.Byron@epa.gov]; Benjamin Hengst (Hengst.Benjamin@epa.gov) [Hengst.Benjamin@epa.gov]  
**Subject:** FW: Sinclair Updates

Fyi

---

**From:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Sent:** Friday, March 26, 2021 8:10 PM  
**To:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>  
**Cc:** Radha Adhar <[Ex. 6 Personal Privacy (PP)]>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>  
**Subject:** Re: Sinclair Updates

As usual, sterling advice from ARLO. Thanks

Sent from my iPhone

On Mar 26, 2021, at 8:06 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

## Ex. 5 Attorney Client (AC)

+++++

(202) 564-5647 (o)

[Ex. 6 Personal Privacy (PP)]

On Mar 26, 2021, at 6:19 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Radha – You may already know this, but Sinclair has filed a notice of intent to sue, so I am adding Melissa, Sue, and Gautam for awareness and guidance. Thanks.

Joseph Goffman  
 Acting Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

---

**From:** LaCroix, Cole (Lee) <Cole.LaCroix@lee.senate.gov>  
**Sent:** Friday, March 26, 2021 6:09 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <[Ex. 6 Personal Privacy (PP)]>  
**Subject:** Re: Sinclair Updates

Hi Joe and Radha,

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**What is the continuity standard created by RFA v. EPA?**

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**Does Sinclair meet the continuity standard under RFA v. EPA???**

Ex. 4 CBI

**Ex. 4 CBI**



# Ex. 4 CBI

As I stated earlier, in RFA, the Tenth Circuit concluded that EPA may grant hardship relief to a small refinery only if that small refinery had continuously received hardship relief for the life of the RFS program.

Ex. 4 CBI

# Ex. 4 CBI

Where does that leave us?

Ex. 4 CBI

the determinations of the court in RFA v. EPA are no longer relevant to EPA decision making. This means EPA doesn't have the authority withhold Sinclair's RINs. The relief that EPA rightfully provided Sinclair waived the company's compliance obligations under the RFS program. So EPA has no right to keep the compliance credits that Sinclair previously provided.

Ex. 4 CBI

Ex. 4 CBI

## Steps moving forward

While on the phone with Senator Lee, Administrator Regan was not understanding the Senator's concerns with the applicability of RFA v. EPA. He told the Senator that he would have EPA staff reach out to speak with our staff about the 'more granular details' of the issue. However, when I got on the phone with Radha, I was informed that we would no longer be able to communicate on issues related to Sinclair because of concerns regarding the confidential business information involved. I've attached a privacy release signed by Sinclair authorizing our office to investigate these matters. I need to immediately confirm our ability to communicate with your office on these issues related to Sinclair.

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Thanks for your attention on this important issue. Talk soon,  
Cole

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**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Date:** Thursday, March 11, 2021 at 2:43 PM

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

Joe,

I know you all are working on this but I thought I might inquire a little further to understand the consideration your team is mulling over. The way I understood it was that once the court made its determination on the motion to stay the issuance of the RINs, it would then be the job of the EPA to promptly issue them. The only way I can imagine that not happening is if the agency is reconsidering the waiver? Is that the consideration that is under debate? Or is it more of a due-diligence process that has to be undergone before issuance?

## Ex. 4 CBI

Hoping you can shed some light on what the consideration is and, if you are aware, a potential timeline of when it could be sorted out.

Thanks for all you help on this issue.  
 Cole

---

**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Date:** Tuesday, March 9, 2021 at 8:46 PM  
**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** RE: Sinclair Updates

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Best,  
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 Acting Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

---

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<HPSCAN\_20210326202156986\_2021-03-26\_202331701[2].pdf>

<HPSCAN\_20210326205331074\_2021-03-26\_205506385[1].pdf>

## Message

**From:** Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]  
**Sent:** 1/5/2021 5:11:50 PM  
**To:** Byron Bunker [Bunker.Byron@epa.gov]  
**CC:** Hengst, Benjamin [Hengst.Benjamin@epa.gov]  
**Subject:** RE: Direction from the Administrator (Deliberative)

Thank you—this is helpful and makes sense to me.

**Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

---

**From:** Bunker, Byron <bunker.byron@epa.gov>  
**Sent:** Tuesday, January 5, 2021 12:10 PM  
**To:** Dunham, Sarah <Dunham.Sarah@epa.gov>  
**Cc:** Hengst, Benjamin <Hengst.Benjamin@epa.gov>  
**Subject:** RE: Direction from the Administrator (Deliberative)

Hi Sarah,

# Ex. 5 Deliberative Process (DP)

Thanks,

Byron

\*\*\*\*\*

Byron Bunker  
Director Compliance Division  
Office of Transportation and Air Quality  
Environmental Protection Agency  
2000 Traverwood Drive

Ann Arbor, MI 48105  
[Bunker.Byron@epa.gov](mailto:Bunker.Byron@epa.gov)  
Phone: (734) 214-4155  
Mobile: (734) 353-9623  
\*\*\*\*\*

---

**From:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>  
**Sent:** Tuesday, December 01, 2020 12:55 PM  
**To:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>  
**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

## Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

With Regard, Karl

## Message

**From:** LaCroix, Cole (Lee) [Cole\_LaCroix@lee.senate.gov]  
**Sent:** 3/26/2021 10:08:59 PM  
**To:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**CC:** Radha Adhar; **Ex. 6 Personal Privacy (PP)**  
**Subject:** Re: Sinclair Updates  
**Attachments:** HPSCAN\_20210326202156986\_2021-03-26\_202331701[2].pdf; HPSCAN\_20210326205331074\_2021-03-26\_205506385[1].pdf

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**Ex. 4 CBI**

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**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Date:** Thursday, March 11, 2021 at 2:43 PM

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>

**Subject:** Re: Sinclair Updates

Joe,

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Cole

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**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Date:** Tuesday, March 9, 2021 at 8:46 PM  
**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** RE: Sinclair Updates

Hi, Cole. Well, we've heard emphatically from both sides – RFA and the attorney representing Sinclair -- on their respective, conflicting preferences. Colleagues in the Air Program and in the General Counsel's office are deliberating on a recommendation to make to agency leadership on how to proceed, and I would propose that we connect once that recommendation is put forward and we decide what makes sense to do. Of course, if there's urgency on your end for a call tomorrow, I will try to find a time when either I or someone here can talk.

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Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

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Thanks,  
Cole

## Message

**From:** Stahle, Susan [Stahle.Susan@epa.gov]  
**Sent:** 1/7/2021 3:37:25 PM  
**To:** Orlin, David [Orlin.David@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]  
**Subject:** RE: Draft SRE Decision for Sinclair WY 2018

## Ex. 5 Deliberative Process (DP) / AWP

Susan Stahle  
Air and Radiation Law Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
WJCN-7502B  
202-564-1272

---

**From:** Orlin, David <Orlin.David@epa.gov>  
**Sent:** Thursday, January 7, 2021 10:30 AM  
**To:** Dubey, Susmita <dubey.susmita@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Miller, Meredith <Miller.Meredith@epa.gov>  
**Subject:** RE: Draft SRE Decision for Sinclair WY 2018

## Ex. 5 Deliberative Process (DP) / AWP

David Orlin  
U.S. EPA, Office of General Counsel  
(202) 564-1222

---

**From:** Dubey, Susmita <dubey.susmita@epa.gov>  
**Sent:** Thursday, January 07, 2021 10:15 AM  
**To:** Stahle, Susan <Stahle.Susan@epa.gov>; Miller, Meredith <Miller.Meredith@epa.gov>  
**Cc:** Orlin, David <Orlin.David@epa.gov>  
**Subject:** FW: Draft SRE Decision for Sinclair WY 2018

## Ex. 5 Deliberative Process (DP) / AWP

Susmita Dubey  
Office of General Counsel  
(202) 564-5577

---

**From:** Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>  
**Sent:** Thursday, January 7, 2021 10:07 AM  
**To:** Orlin, David <[Orlin.David@epa.gov](mailto:Orlin.David@epa.gov)>; Dubey, Susmita <[dubey.susmita@epa.gov](mailto:dubey.susmita@epa.gov)>; Stahle, Susan <[Stahle.Susan@epa.gov](mailto:Stahle.Susan@epa.gov)>  
**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Subject:** FW: Draft SRE Decision for Sinclair WY 2018

See below

---

**From:** Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Sent:** Thursday, January 7, 2021 9:50 AM  
**To:** Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>  
**Cc:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Subject:** RE: Draft SRE Decision for Sinclair WY 2018

Ben,

I looked this over yesterday afternoon.

**Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

**David S. Harlow**  
**Senior Counsel**  
**Office of Air and Radiation, USEPA**  
**WJC-N Room 5409K**  
**1200 Pennsylvania Avenue NW**  
**Washington, DC 20460**  
**202-564-1233**  
[Harlow.David@epa.gov](mailto:Harlow.David@epa.gov)  
**5 U.S.C. § 3331**

---

**From:** Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>  
**Sent:** Wednesday, January 6, 2021 4:01 PM  
**To:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>  
**Cc:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>  
**Subject:** Draft SRE Decision for Sinclair WY 2018

Hi David, Karl:

## Ex. 5 Deliberative Process (DP)

---

**From:** Moor, Karl <[Moor.Karl@epa.gov](mailto:Moor.Karl@epa.gov)>

**Sent:** Tuesday, December 01, 2020 12:55 PM

**To:** Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>

**Cc:** Bunker, Byron <[bunker.byron@epa.gov](mailto:bunker.byron@epa.gov)>; Hengst, Benjamin <[Hengst.Benjamin@epa.gov](mailto:Hengst.Benjamin@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Harlow, David <[harlow.david@epa.gov](mailto:harlow.david@epa.gov)>

**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

## Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

With Regard, Karl

Message

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**From:** Fotouhi, David [Fotouhi.David@epa.gov]  
**Sent:** 12/1/2020 6:04:28 PM  
**To:** Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]  
**Subject:** FW: Direction from the Administrator (Deliberative)

FYI

**David Fotouhi**

Acting General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Moor, Karl <Moor.Karl@epa.gov>  
**Sent:** Tuesday, December 1, 2020 12:55 PM  
**To:** Dunham, Sarah <Dunham.Sarah@epa.gov>  
**Cc:** Bunker, Byron <bunker.byron@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Harlow, David <harlow.david@epa.gov>  
**Subject:** Direction from the Administrator (Deliberative)

Good Afternoon Sarah,

# Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP) / Ex. 4 CBI**

With Regard, Karl

## Message

**From:** Adhar, Radha [Adhar.Radha@epa.gov]  
**Sent:** 4/13/2021 3:52:07 PM  
**To:** LaCroix, Cole (Lee) [Cole\_LaCroix@lee.senate.gov]  
**CC:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Subject:** RE: Sinclair Updates

Thanks Cole, I will give you a ring. Can you please not include my personal email on your emails? The Administrator has directed us not to use personal devices for work purposes.

---

**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>  
**Sent:** Tuesday, April 13, 2021 10:36 AM  
**To:** Radha Adhar [Ex. 6 Personal Privacy (PP)]  
**Cc:** Adhar, Radha <Adhar.Radha@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** Re: Sinclair Updates

Thanks, Radha. Would love to chat about this. Btw your voicemail isn't set up.

On Apr 12, 2021, at 4:03 PM, Radha Adhar [Ex. 6 Personal Privacy (PP)] wrote:

Hey guys, looping in my work email.

On Mon, Apr 12, 2021 at 1:42 PM LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov> wrote:

Hey everyone, hoping to follow up on this and get an update.

---

**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov> on behalf of "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Date:** Friday, March 26, 2021 at 6:08 PM  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar [Ex. 6 Personal Privacy (PP)]  
**Subject:** Re: Sinclair Updates

Hi Joe and Radha,

Hope you both are doing well. This week when Mr. Regan spoke with Senator Lee, he made a series of comments relating the Sinclair situation to RFA v. EPA. This is concerning to me because we believe that the Sinclair waiver has nothing to do with RFA v. EPA. I've put some details down below explaining this and laying out how I hope we can proceed going forward.



**What is the continuity standard created by RFA v. EPA?**

In January 2020, the Tenth Circuit vacated and remanded three EPA decisions granting SRE petitions for the 2016 and 2017 RFS compliance years which were issued in calendar years 2017 and 2018, holding that a small refinery's petition can be granted only if the refinery satisfies two conditions: 1, the small refiner must demonstrate an existing exemption (meaning continuous exemptions from the inception of the program); and 2, the small refiner must demonstrate disproportionate economic hardship caused by RFS compliance.

**Does Sinclair meet the continuity standard under RFA v. EPA??**

Ex. 4 CBI

**Ex. 4 CBI**

# Ex. 4 CBI

As I stated earlier, in RFA, the Tenth Circuit concluded that EPA may grant hardship relief to a small refinery only if that small refinery had continuously received hardship relief for the life of the RFS program.

Ex. 4 CBI

# Ex. 4 CBI

Where does that leave us?

Ex. 4 CBI

the determinations of the court in RFA v. EPA are no longer relevant to EPA decision making. This means EPA doesn't have the authority withhold Sinclair's RINs. The relief that EPA rightfully provided Sinclair waived the company's compliance obligations under the RFS program. So EPA has no right to keep the compliance credits that Sinclair previously provided.

Ex. 4 CBI

Ex. 4 CBI

## Steps moving forward

While on the phone with Senator Lee, Administrator Regan was not understanding the Senator's concerns with the applicability of RFA v. EPA. He told the Senator that he would have EPA staff reach out to speak with our staff about the 'more granular details' of the issue. However, when I got on the phone with Radha, I was informed that we would no longer be able to communicate on issues related to Sinclair because of concerns regarding the confidential business information involved. I've attached a privacy release signed by Sinclair authorizing our office to investigate these matters. I need to immediately confirm our ability to communicate with your office on these issues related to Sinclair.

Secondly, while on the phone with the Senator, Mr. Regan again emphasized his commitment to transparency on the issue. While on the phone with Radha, I was told that EPA is or would be reaching out to Sinclair. That, however, has still not occurred. I need to set a date next week for EPA to speak to Sinclair even if simply to establish contact with the attorneys at OGC who are leading on this issue. It is critical that Sinclair be able to communicate with their regulatory agency about issues relevant to their operation.

Thanks for your attention on this important issue. Talk soon,

Cole

---

**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Date:** Thursday, March 11, 2021 at 2:43 PM  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar { Ex. 6 Personal Privacy (PP) }  
**Subject:** Re: Sinclair Updates

Joe,

I know you all are working on this but I thought I might inquire a little further to understand the consideration your team is mulling over. The way I understood it was that once the court made its determination on the motion to stay the issuance of the RINs, it would then be the job of the EPA to promptly issue them. The only way I can imagine that not happening is if the agency is reconsidering the waiver? Is that the consideration that is under debate? Or is it more of a due-diligence process that has to be undergone before issuance?

## Ex. 4 CBI

Hoping you can shed some light on what the consideration is and, if you are aware, a potential timeline of when it could be sorted out.

Thanks for all you help on this issue.

Cole

---

**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Date:** Tuesday, March 9, 2021 at 8:46 PM  
**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Cc:** Radha Adhar { Ex. 6 Personal Privacy (PP) }  
**Subject:** RE: Sinclair Updates

Hi, Cole. Well, we've heard emphatically from both sides – RFA and the attorney representing Sinclair -- on their respective, conflicting preferences. Colleagues in the Air Program and in the General Counsel's office are deliberating on a recommendation to make to agency leadership on how to proceed, and I would propose that we connect once that recommendation is put forward and we decide what makes sense to do. Of course, if there's urgency on your end for a call tomorrow, I will try to find a time when either I or someone here can talk.

Thank you for getting in touch with me.

Best,

Joe

Joseph Goffman

Acting Assistant Administrator

Office of Air and Radiation

U.S. Environmental Protection Agency

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**From:** LaCroix, Cole (Lee) <[Cole\\_LaCroix@lee.senate.gov](mailto:Cole_LaCroix@lee.senate.gov)>

**Sent:** Tuesday, March 9, 2021 8:25 PM

**To:** Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>

**Subject:** Sinclair Updates

Hi Joe,

Hope you're doing well. Just wanted to check in and see what the latest was with Sinclair now that the court has made a determination. Would you be able to jump on a quick call tomorrow?

Thanks,

Cole

## Message

**From:** Hoffer, Melissa [Hoffer.Melissa@epa.gov]  
**Sent:** 4/12/2021 6:12:16 PM  
**To:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Subject:** RE: Sinclair Updates

DOJ is still drafting the motion and declaration. I have my weekly with Matt and Gautam today and can ask for an update.

---

**From:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Sent:** Monday, April 12, 2021 1:53 PM  
**To:** Hoffer, Melissa <Hoffer.Melissa@epa.gov>  
**Subject:** FW: Sinclair Updates

This happened to remind me to ask whether there was an update on the 10<sup>th</sup> Circuit (or was it DC Circuit?) motion practice we had been discussing a couple of weeks back. Thanks.

Joseph Goffman  
 Acting Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

---

**From:** Goffman, Joseph  
**Sent:** Monday, April 12, 2021 1:45 PM  
**To:** Adhar, Radha <Adhar.Radha@epa.gov>  
**Subject:** FW: Sinclair Updates

I will continue to stand back and leave it to you (or OGC) to respond unless you tell me otherwise – and in that case it will take some time. Thanks.

Joseph Goffman  
 Acting Assistant Administrator  
 Office of Air and Radiation  
 U.S. Environmental Protection Agency

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**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>  
**Sent:** Monday, April 12, 2021 1:42 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

Hey everyone, hoping to follow up on this and get an update.

---

**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov> on behalf of "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Date:** Friday, March 26, 2021 at 6:08 PM  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

Hi Joe and Radha,

Hope you both are doing well. This week when Mr. Regan spoke with Senator Lee, he made a series of comments relating the Sinclair situation to RFA v. EPA. This is concerning to me because we believe that the Sinclair waiver has nothing to do with RFA v. EPA. I've put some details down below explaining this and laying out how I hope we can proceed going forward.

**What is the continuity standard created by RFA v. EPA?**

In January 2020, the Tenth Circuit vacated and remanded three EPA decisions granting SRE petitions for the 2016 and 2017 RFS compliance years which were issued in calendar years 2017 and 2018, holding that a small refinery's petition can be granted only if the refinery satisfies two conditions: 1, the small refiner must demonstrate an existing exemption (meaning continuous exemptions from the inception of the program); and 2, the small refiner must demonstrate disproportionate economic hardship caused by RFS compliance.

**Does Sinclair meet the continuity standard under RFA v. EPA???**

Ex. 4 CBI

**Ex. 4 CBI**

**Ex. 4 CBI**

As I stated earlier, in RFA, the Tenth Circuit concluded that EPA may grant hardship relief to a small refinery only if that small refinery had continuously received hardship relief for the life of the RFS program.

Ex. 4 CBI

**Ex. 4 CBI**

## Ex. 4 CBI

Where does that leave us?

Ex. 4 CBI

the determinations of the court in RFA v. EPA are no longer relevant to EPA decision making. This means EPA doesn't have the authority withhold Sinclair's RINs. The relief that EPA rightfully provided Sinclair waived the company's compliance obligations under the RFS program. So EPA has no right to keep the compliance credits that Sinclair previously provided.

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### Steps moving forward

While on the phone with Senator Lee, Administrator Regan was not understanding the Senator's concerns with the applicability of RFA v. EPA. He told the Senator that he would have EPA staff reach out to speak with our staff about the 'more granular details' of the issue. However, when I got on the phone with Radha, I was informed that we would no longer be able to communicate on issues related to Sinclair because of concerns regarding the confidential business information involved. I've attached a privacy release signed by Sinclair authorizing our office to investigate these matters. I need to immediately confirm our ability to communicate with your office on these issues related to Sinclair.

Secondly, while on the phone with the Senator, Mr. Regan again emphasized his commitment to transparency on the issue. While on the phone with Radha, I was told that EPA is or would be reaching out to Sinclair. That, however, has still not occurred. I need to set a date next week for EPA to speak to Sinclair even if simply to establish contact with the attorneys at OGC who are leading on this issue. It is critical that Sinclair be able to communicate with their regulatory agency about issues relevant to their operation.

Thanks for your attention on this important issue. Talk soon,  
Cole

---

**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>

**Date:** Thursday, March 11, 2021 at 2:43 PM

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar ; Ex. 6 Personal Privacy (PP)

**Subject:** Re: Sinclair Updates

Joe,

I know you all are working on this but I thought I might inquire a little further to understand the consideration your team is mulling over. The way I understood it was that once the court made its determination on the motion to stay the issuance of the RINs, it would then be the job of the EPA to promptly issue them. The only way I can imagine that not happening is if the agency is reconsidering the waiver? Is that the consideration that is under debate? Or is it more of a due-diligence process that has to be undergone before issuance?

## Ex. 4 CBI

Hoping you can shed some light on what the consideration is and, if you are aware, a potential timeline of when it could be sorted out.

Thanks for all you help on this issue.  
Cole

---

**From:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Date:** Tuesday, March 9, 2021 at 8:46 PM  
**To:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Cc:** Radha Adhar { **Ex. 6 Personal Privacy (PP)** }  
**Subject:** RE: Sinclair Updates

Hi, Cole. Well, we've heard emphatically from both sides – RFA and the attorney representing Sinclair -- on their respective, conflicting preferences. Colleagues in the Air Program and in the General Counsel's office are deliberating on a recommendation to make to agency leadership on how to proceed, and I would propose that we connect once that recommendation is put forward and we decide what makes sense to do. Of course, if there's urgency on your end for a call tomorrow, I will try to find a time when either I or someone here can talk.

Thank you for getting in touch with me.

Best,  
Joe

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** LaCroix, Cole (Lee) <Cole\_LaCroix@lee.senate.gov>  
**Sent:** Tuesday, March 9, 2021 8:25 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** Sinclair Updates

Hi Joe,

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Thanks,  
Cole



Message

---

**From:** Goffman, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=23474D598E8D4EDFA9214A5991F2935B-GOFFMAN, JO]  
**Sent:** 4/15/2021 1:50:08 AM  
**To:** Hoffer, Melissa [Hoffer.Melissa@epa.gov]  
**Subject:** RE: Sinclair Updates

Thanks, Melissa.

Joseph Goffman  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

---

**From:** Hoffer, Melissa <Hoffer.Melissa@epa.gov>  
**Sent:** Wednesday, April 14, 2021 9:28 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** RE: Sinclair Updates

We should be receiving the near final drafts of the motion and declaration tomorrow or Friday.

M

---

**From:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Sent:** Monday, April 12, 2021 1:53 PM  
**To:** Hoffer, Melissa <Hoffer.Melissa@epa.gov>  
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This happened to remind me to ask whether there was an update on the 10<sup>th</sup> Circuit (or was it DC Circuit?) motion practice we had been discussing a couple of weeks back. Thanks.

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U.S. Environmental Protection Agency

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**From:** Goffman, Joseph  
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**To:** Adhar, Radha <Adhar.Radha@epa.gov>  
**Subject:** FW: Sinclair Updates

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**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
**Subject:** Re: Sinclair Updates

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**From:** "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov> on behalf of "LaCroix, Cole (Lee)" <Cole\_LaCroix@lee.senate.gov>  
**Date:** Friday, March 26, 2021 at 6:08 PM  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Cc:** Radha Adhar <Ex. 6 Personal Privacy (PP)>  
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**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>

**Cc:** Radha Adhar {Ex. 6 Personal Privacy (PP)}

**Subject:** Re: Sinclair Updates

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**Date:** Tuesday, March 9, 2021 at 8:46 PM  
**To:** "LaCroix, Cole (Lee)" <[Cole\\_LaCroix@lee.senate.gov](mailto:Cole_LaCroix@lee.senate.gov)>  
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**Subject:** RE: Sinclair Updates

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Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

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Cole

Appointment

---

**From:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Sent:** 2/23/2021 7:50:44 PM  
**To:** Goffman, Joseph [Goffman.Joseph@epa.gov]; Morrison, Matthew W. [matthew.morrison@pillsburylaw.com]; Geoff Cooper [GCooper@ethanolrfa.org]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]  
**CC:** Kim, Eun [Kim.Eun@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]  
**Subject:** Meeting with RFA re: RFS  
**Location:** Microsoft Teams Meeting  
**Start:** 2/24/2021 11:00:00 PM  
**End:** 2/24/2021 11:45:00 PM  
**Show Time As:** Busy

**Required Attendees:** Morrison, Matthew W.; Geoff Cooper; Nunez, Alejandra; 'Dunham, Sarah (Dunham.Sarah@epa.gov)'; Benjamin Hengst; Dubey, Susmita  
**Optional Attendees:** Kim, Eun; Stahle, Susan; Miller, Meredith

Hi Delaney – our planned agenda is pretty similar to the one we provided in the meeting request form, but with a couple of tweaks given some recent developments. Here is what we propose:

1. EPA's Announcement on Small Refinery Exemptions
  - a. Implications for Pending Supreme Court case of HollyFrontier v EPA
  - b. Implications for 2018 SRE Litigation
  - c. Implications for SREs Granted to Sinclair for 2019
2. Addressing Small Refinery Exemption Extension Requests in the Future, Irrespective of HollyFrontier
3. Finalizing Past Proposals to Bring Greater Transparency to Small Refinery Exemptions
4. Restoring Volumes of Renewable Fuel to Lost to Small Refinery Exemptions
5. Schedule for 2019 and 2020 Annual Standards
6. Development of Annual Standards for 2023 and Beyond

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## Microsoft Teams meeting

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**Ex. 6 Personal Privacy (PP)** United States, Washington DC

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Appointment

---

**From:** Goffman, Joseph [Goffman.Joseph@epa.gov]  
**Sent:** 2/23/2021 5:56:01 PM  
**To:** Goffman, Joseph [Goffman.Joseph@epa.gov]; Morrison, Matthew W. [matthew.morrison@pillsburylaw.com]; Geoff Cooper [GCooper@ethanolrfa.org]; Nunez, Alejandra [Nunez.Alejandra@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]  
**CC:** Kim, Eun [Kim.Eun@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]; Miller, Meredith [Miller.Meredith@epa.gov]  
**Subject:** Meeting with RFA re: RFS  
**Location:** Microsoft Teams Meeting  
**Start:** 2/24/2021 11:00:00 PM  
**End:** 2/24/2021 11:45:00 PM  
**Show Time As:** Busy

**Required Attendees:** Morrison, Matthew W.; Geoff Cooper; Nunez, Alejandra; 'Dunham, Sarah (Dunham.Sarah@epa.gov)'; Benjamin Hengst; Dubey, Susmita  
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